

**REMARKS**

**Status of the claims:**

Claims 1, 2, 11-15, 29, 30, 32, and 33 are pending and ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

**Oath/Declaration**

The Examiner has objected to the Oath/Declaration asserting that the Oath/Declaration recites a different priority document from that recited in the body of the written description. Enclosed with this response, please find an supplemental Oath/Declaration executed by the living inventors that corrects the errors that are present on the original Oath/Declaration. It is respectfully submitted that one of the inventors is deceased and thus, is unavailable to sign the supplemental Oath/Declaration. In lieu of the signature of said deceased inventor, Applicants herein submit a copy of the death certificate showing that said inventor has died.

Applicants respectfully direct the Examiner's attention to MPEP 603, which recites, in part:

*When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).*

Thus, Applicants respectfully request that the requirement for all inventors to sign the Oath/Declaration be waived under 37 C.F.R. 1.183. All of the other joint inventors have in fact signed the supplemental Oath/Declaration on behalf of themselves and on behalf of the deceased inventor.

**Double Patenting**

Claims 1, 2, 11-15, 29, 30, 32, and 33 are rejected for obviousness type double patenting as allegedly being unpatentable over claims 1-27 in Mjalli '801 (US Patent No. 6,613,801).

Applicants herein submit a terminal disclaimer over Mjalli '801. Applicants believe that with this terminal disclaimer that the obviousness type double patenting rejection over Mjalli '801 is obviated. Withdrawal of the rejection is warranted and respectfully requested.

**Rejections under 35 U.S.C. §112, first paragraph**

Claims 1, 2, 11-15, 29, 30, 32, and 33 are rejected under 35 U.S.C. §112, first paragraph as allegedly lacking description.

Applicants traverse. Applicants respectfully point out that Applicants did indeed have possession of the instantly claimed invention at the time that the application was filed. The Examiner, in the Office Action, recites:

*The instant claims recite the limitation “wherein at least one of Aryl<sub>1</sub> and Aryl<sub>2</sub> is substituted with a lipophilic group of formula –Y-C<sub>1-6</sub>-alkyl-NR<sub>7</sub>R<sub>8</sub>”. However the present specification lacks description of compounds wherein Aryl<sub>1</sub> is substituted with Y-C<sub>1-6</sub>-alkyl-NR<sub>7</sub>, and thus, does not convey to the skilled artisan that applicant, at the time the application was filed, had possession of the claimed invention.*

Applicants respectfully point out that the claimed invention has been adequately described so that one of skill in the art would recognize that Applicants were in full possession of the claimed invention at the time of filing the application. To show that

Applicants did in fact have possession of the claimed invention, Applicants direct the Examiner's attention to page 4, paragraph [0010] wherein it is recited "wherein each of Aryl<sub>1</sub> and Aryl<sub>2</sub> are substituted by at least one lipophilic group". This passage shows that it was contemplated that both Aryl<sub>1</sub> and Aryl<sub>2</sub> were to be substituted by a lipophilic group. Applicants respectfully point out the similarities between the generic formula in paragraph [0010] and the formula in paragraph [0011], which the Examiner has acknowledged. The linking groups attached to Aryl<sub>1</sub> and Aryl<sub>2</sub> in combination with the Aryl<sub>1</sub> and Aryl<sub>2</sub> moieties are the functional equivalents of R<sub>3</sub> and R<sub>4</sub> from the generic formula (I) as appears in paragraph [0011]. At the top of page 6 (*i.e.*, lines 1-9) it is disclosed that R<sub>3</sub> and R<sub>4</sub> are optionally substituted with 1-4 substituents wherein one of the substituents is -Y-C<sub>1-6</sub>-alkyl-NR<sub>7</sub>R<sub>8</sub>. Applicants respectfully point out that this disclosure is precisely the language that the Examiner has rejected for inadequate description. Applicants believe that this description is sufficient to show that Applicants did in fact have possession of the claimed invention at the time of filing the invention. Withdrawal of the rejection is warranted and respectfully requested.

Moreover, Applicants respectfully submit that in the response of September 20, 2004, Applicants noted that compounds 3-4, 8-9, 13-24 and 26 fall within the scope of the genus "wherein at least one of Aryl<sub>1</sub> and Aryl<sub>2</sub> is substituted with a lipophilic group of formula -Y-C<sub>1-6</sub>-alkyl-NR<sub>7</sub>R<sub>8</sub>". Accordingly, Applicants submit that these genus of compounds adequately describes the claimed invention to show that Applicants were in full possession of the claimed invention at the time of filing the invention. For this reason also, Applicants submit that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

**CONCLUSION**

With the above amendments and remarks, Applicants believe that all objections and/or rejections have been obviated. Thus, each of the claims remaining in the application is in condition for immediate allowance. A passage of the instant invention to allowance is earnestly solicited.

Applicants believe that no fee is necessary, however, should a fee be deemed to be necessary, the Commissioner is hereby authorized to charge any fees required by this action or any future action to Deposit Account No. 16-1435.

Should the Examiner have any questions relating to the instant application, the Examiner is invited to telephone the undersigned at (336) 607-7486 to discuss any issues.

Respectfully submitted,

Date: 4/11/05

  
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# STATE OF NORTH CAROLINA

**CERTIFICATION OF VITAL RECORD**

**COUNTY OF GUILFORD  
REGISTER OF DEEDS**

## APPENDIX A

NORTH CAROLINA DEPARTMENT OF HEALTH, AND HUMAN SERVICES  
STATE CENTER FOR HEALTH STATISTICS - N. C. VITAL RECORDS  
**CERTIFICATE OF DEATH**

001729

Registration  
District No. 041-912 Local No.

DECEDENT'S NAME (First, Middle, Last)					SEX	DATE OF DEATH (Month, Day, Year)	
1. Kwasi Senclorm Avor					2. M	3. January 8, 2004	
SOCIAL SECURITY NUMBER		AGE - Last Birthday (Years)	UNDER 1 YEAR Months: 5 Days: 5b.	UNDER 1 DAY Hours: 6 Minutes: 6c.	DATE OF BIRTH (Month, Day, Year)	BIRTHPLACE (County and State or Foreign Country)	
4. 390-86-2842		5			6. 4/21/1952	7. Ghana	
WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes or No)		9a. PLACE OF DEATH (Check only one)					
8. No		HOSPITAL: <input checked="" type="checkbox"/> Inpatient <input type="checkbox"/> ER/Outpatient <input type="checkbox"/> DOA OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input type="checkbox"/> Other (Specify)					
FACILITY NAME (If not institution, give street and number)		CITY, TOWN, OR LOCATION OF DEATH		INSIDE CITY LIMITS? (Yes or No)		COUNTY OF DEATH	
9b. High Point Regional Hospital		9c. High Point		9d. Yes		9e. Guilford	
MARITAL STATUS - Married, Never Married, Widowed, Divorced (Specify)		SURVIVING SPOUSE (If wife, give maiden name)		DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired)			KIND OF BUSINESS/INDUSTRY
10. Married		11. Dekor Sammy		12a. Scientist			12b. Medical
RESIDENCE STATE		COUNTY	CITY, TOWN, OR LOCATION		STREET AND NUMBER		
13a. NC		13b. Guilford	13c. High Point		13d. 4000 Clubhouse Ct. Apt 2F		
INSIDE CITY LIMITS? (Yes or No)		ZIP CODE	Was Decedent of Hispanic Origin? (Specify Yes or No - if yes, specify Cuban, Mexican, Puerto Rican, etc.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Specify)		RACE - American Indian, Black, White, Etc. (Specify)	DECEDENT'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (0-12) College (13-17+)	
13e. Yes		13f. 27265	14.		15. Black	16. 24	
FATHER'S NAME (First, Middle, Last)		MOTHER'S NAME (First, Middle, Maiden Surname)					DATE AMENDED
17. Michael Avor		18. Agnes D. Agbedzige					19c.
INFORMANT'S NAME (Type/Print)		MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)					Approximate Interval Between Onset and Death
19a. Dekor S. Avor		19b. 11307 Kessler Place, Manassas, VA 20109					
Part I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock or heart failure. If appropriate, enter tobacco, alcohol, or drug use. List only one cause on each line. (PRINT OR TYPE)							
IMMEDIATE CAUSE (Final disease or condition resulting in death)		a. <u>Cerebral infarction</u> DUE TO (OR AS A CONSEQUENCE OF):					
Sequentially list conditions if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death) LAST		b. _____ DUE TO (OR AS A CONSEQUENCE OF):					
20a. _____ 20b. _____ 20c. _____ 20d. _____		c. _____ DUE TO (OR AS A CONSEQUENCE OF):					
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I, such as tobacco, alcohol, or drug use; diabetes, etc.							
20b. AUTOPSY? (Yes or No)		If yes, were findings considered in determining cause of death?		Was case referred to Medical Examiner (Yes or No)		TIME OF DEATH	
21a. No		21b. _____		21c. No		22. 2:30 PM	
NOTICE: STATE LAW REQUIRES THAT ALL DEATHS DUE TO TRAUMA, ACCIDENT, HOMICIDE, SUICIDE, OR UNDER SUSPICIOUS, UNUSUAL, OR UNNATURAL CIRCUMSTANCES BE REPORTED TO, AND CERTIFIED BY A MEDICAL EXAMINER ON A MEDICAL EXAMINER'S CERTIFICATE OF DEATH. ANY DEATH FALLING INTO THESE CATEGORIES IS WITHIN THE MEDICAL EXAMINER'S JURISDICTION REGARDLESS OF THE LENGTH OF SURVIVAL FOLLOWING THE UNDERLYING INJURY.							
SIGNATURE AND TITLE OF CERTIFIER		DATE SIGNED (Month, Day, Year)					
23a. <u>C. Stephen Ford, M.D.</u>		23b. <u>1/16/04</u>					
NAME AND ADDRESS OF PERSON WHO COMPLETED CAUSE OF DEATH (ITEM 20) (Type or Print)							
24. C. Stephen Ford		624 Quaker Ln., High Point, NC 27262					
METHOD OF DISPOSITION		PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)			LOCATION - City or Town, State, Zip Code		
<input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal 25a. <input type="checkbox"/> Donation <input type="checkbox"/> Other		25b. Oakwood Memorial Park Cemetery			25c. High Point, NC 27262		
NAME AND ADDRESS OF FUNERAL HOME							
26a. Curby Family Funeral Service, 1015 Eastchester Drive, High Point, NC 27262				NAME OF FUNERAL DIRECTOR			
26b. Jerry W. Hawks				LICENSE NUMBER			
26c. PS292				LICENSE NUMBER			
REGISTRAR'S SIGNATURE							
27. <u>Reed L. Kellerman, R.R. 1/16/04</u>				DATE FILED (Month, Day, Year)			
28. 1/16/04				NAME OF EMBALMER			
26d. Jerry W. Hawks				LICENSE NUMBER			
26e. PS292				LICENSE NUMBER			

I HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE COPY WHICH APPEARS ON RECORD IN  
THE OFFICE OF REGISTER OF DEEDS, GUILFORD COUNTY, N. C. IN BOOK 0283 PAGE 1729.  
WITNESS MY HAND AND SEAL THIS 21st OF JANUARY, 2004.

KATHERINE LEE PAYNE, REGISTER OF DEEDS  
BY: Wendy L. Conrad  
ASSISTANT/DEPUTY REGISTER OF DEEDS